

CLEAN AIR ACT

R6-7-6-A. Administrative Enforcement Actions: Issuance of Complaints and Orders, and Signing of Consent Agreements, etc.

1. AUTHORITY.

a. To make findings of violation, to issue notices of violation, to issue orders, to issue or withdraw complaints, to issue penalty orders, to issue administrative compliance orders, to give written notice of a proposed administrative penalty, to issue field citations, and to negotiate and confer with the alleged violator pursuant to the Clean Air Act (CAA), to sign consent agreements memorializing settlements between the Agency and respondents, and to compromise, modify or remit administrative penalties, except for new source review orders.

b. To determine jointly with the Attorney General in accordance with the CAA the circumstances under which a matter involving a larger penalty or longer period of violation is appropriate for administrative penalty action.

2. TO WHOM DELEGATED. Director, Compliance Assurance and Enforcement Division, Director, Multimedia planning and Permitting Division, and the Director, Superfund Division.

3. LIMITATIONS.

a. Once the alleged violator files an answer or fails to file an answer in the specified time period, the Regional Counsel or their designees will conduct all negotiations.

b. The Assistant Administrator for Enforcement and Compliance Assurance may exercise these authorities in multi-Regional cases, cases of national significance or nationally managed programs. The Assistant Administrator for Enforcement and Compliance Assurance or his/her designee must notify any affected Regional Administrators or their designees when exercising any of the above authorities except for issuing notices of violations, issuing complaints, issuing field citations and making findings of violation. In addition, once the alleged violator files an answer or fails to file an answer in the specified time period, the Assistant Administrator for Enforcement and Compliance Assurance or his/her designee will conduct all negotiations.

c. The Regional Administrator or his/her designee must obtain the concurrence of the Assistant Administrator for Enforcement and Compliance Assurance or his/her designee before issuing the first three complaints and before signing the first three consent agreements in the

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administrative penalty program. In addition, the Regional Administrators or their designees must submit copies of all administrative complaints, all signed consent agreements and all penalty justification documentation to the Assistant Administrators for Enforcement and Compliance Assurance within 20 days from their issuance or signing. The Assistant Administrator for Enforcement and Compliance Assurance or his/her designees may issue guidance concerning headquarters oversight of the administrative penalty program.

d. The Assistant Administrator for Enforcement and Compliance Assurance may waive his/her consultation and concurrence requirements by memorandum.

e. The Assistant Administrator for Enforcement and Compliance Assurance must concur in any determination regarding the authority delegated under paragraph 1.b.

f. The Deputy Administrator may, based on the recommendation of the Assistant Administrator for Enforcement and Compliance Assurance or his/her designee, withdraw any authority delegated to the Regional Administrators or impose additional concurrence or consultation requirements on a case-by-case basis, based on a determination that a Region has failed to adequately follow or implement guidance and policies concerning the administrative penalty program.

g. The Director, Multimedia Planning and Permitting Division, may exercise this authority only as it relates to 40 CFR Part 61, Subparts B, H, I, K, Q, R, and W.

h. The Director, Superfund Division is delegated authority for enforcement actions on minor facilities regulated under 112(r) of the Clean Air Act.

4. REDELEGATION AUTHORITY. This authority may not be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 113(a), 113(d), 113(e) and 205(c) of the Clean Air Act.

b. Emergency administrative orders are covered by the Delegation 7-49, "Emergency Administrative Powers."

c. Section 113(a)(5) new source review orders are covered by the Delegation 7-37, "Administrative Enforcement Actions: New Source Review Orders."

d. The Agency official who signed the complaint should sign the consent agreements.

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